

THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

PATRICK TORBERT,)	
)	
Plaintiff,)	
v.)	CASE NO. 3:07-CV-530-MEF
)	[WO]
OPELIKA POLICE DEPT., <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

There being no objections filed to the Recommendation of the Magistrate Judge entered on June 18, 2007 (Doc. # 5), said Recommendation is hereby adopted and it is the

ORDER, JUDGMENT and DECREE that:

1. The plaintiff's claims against the Opelika Police Department be dismissed prior to service of process pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i);
2. The Opelika Police Department be dismissed as a defendant in this cause of action;
3. To the extent the plaintiff's presents claims challenging criminal charges pending against him before the state courts, these claims be dismissed without prejudice in accordance with the provisions of 28 U.S.C. § 1915(e)(2)(B)(ii); and,
4. This case, with respect to the plaintiff's claims against Lt. Clark related to the constitutionality of his arrest and the actions taken against him during the arrest, be referred back to the magistrate judge for appropriate proceedings.

DONE this the 11th day of July, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE